

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

Antonio Silot,
Plaintiff,

v.

Calvin Anderson and
Dove Equipment, LLC,
Defendants.

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Civil Action No. _____

NOTICE OF REMOVAL

Defendants Calvin Anderson and Dove Equipment, LLC file this Notice of Removal under 28 U.S.C. §§ 1441, 1446, and 1332, and respectfully show the follow:

I. INTRODUCTION

1.1 On December 22, 2016, Plaintiff Antonio Silot (“Silot”) filed a personal injury lawsuit against Defendants as Cause No. C-5662-16-J in the 430th Judicial District Court of Hidalgo County, Texas. Defendants were served on December 30, 2016. Plaintiff alleged he suffered injuries as a result of a vehicle collision that occurred on or about December 24, 2014. *See* Pl.’s Original Pet., § 3. In accordance with Rule 47 of the Texas Rules of Civil Procedure, Plaintiff’s Original Petition affirmatively plead monetary relief over \$200,000 but less than \$1,000,000. *See* Pl.’s Original Pet., § 2.

1.2 The events giving rise to Plaintiff’s cause of action occurred in Bexar County, Texas; however, Plaintiff filed its cause in Hidalgo County, Texas asserting that venue was proper in Hidalgo County because Dove Equipment, LLC’s principal place of business is in Hidalgo County. Pl.’s Original Pet., § 2.

1.3 On January 23, 2017, Defendants filed their Motion to Transfer Venue stating that Dove Equipment, LLC was impermissibly joined and may not be sued in the cause of action.

Consistent with this position and in support thereof, Defendants filed their First Amended Answer and Verified Denial conclusively demonstrating Dove Equipment, LLC was impermissibly joined.

1.4 Calvin Anderson, the only properly named defendant, is domiciled and is a resident of the State of Indiana. Pl.'s Original Pet., § 1. Accordingly, because Dove is an improper party and Calvin Anderson is an out of state defendant, complete diversity exists among the parties.

II. THE PARTIES

2.1 Plaintiff is a resident of and domiciled in Pennsylvania.

2.2 Defendant Calvin Anderson is a resident of and domiciled in the State of Indiana.

2.3 Defendant Dove Equipment, LLC is an impermissibly joined party but has its principal place of business in Hidalgo County, Texas.

III. PROCEDURAL REQUIREMENTS FOR REMOVAL

3.1 Defendants were served on December 30, 2016. Removal is timely because Defendants have filed this removal within the 30-day deadline to do so after receipt of Plaintiff's Original Petition.

3.2 Removal to the Southern District of Texas from the 430th Judicial District Court of Hidalgo County, Texas is proper; however, Defendants have filed a motion to transfer venue to Bexar County because it is the only proper county for venue in this cause of action. Consequently, this case should be transferred to the San Antonio Division of the Western District of Texas.

3.3 All Defendants have joined in this Notice of Removal.

3.4 Upon filing of this Notice of Removal, written notice of this filing is being given by the removing defendants to Plaintiff and Plaintiff's counsel as required by law. A copy of this Notice is also being filed with the Clerk of the Court in Hidalgo County, Texas where the cause

was original filed. A copy of all processes, pleadings, and orders are being filed contemporaneously with the Court pursuant to 28 U.S.C. § 1446(a).

IV. VENUE

4.1 Venue is proper in Bexar County only; however, at the time of this filing, the 430th Judicial District Court has not granted Defendants' Motion to Transfer. Accordingly, removal to this Court is proper because the Southern District of Texas, McAllen Division, embraces Hidalgo County, where the original lawsuit is currently pending. 28 U.S.C. § 1441(a).

V. JURISDICTIONAL BASIS FOR REMOVAL

5.1 Removal is proper pursuant to 28 U.S.C. § 1332 because there is complete diversity between the properly named parties and Plaintiff seeks damages in excess of \$200,000, an amount about the jurisdictional requirements.

5.2 Plaintiff is domiciled in Pennsylvania. Defendant Calvin Anderson is domiciled in Indiana. And although Dove Equipment, LLC has its principal place of business in Hidalgo County, Texas, it was impermissibly joined to this lawsuit, and Plaintiff cannot state a cause of action against it.

VI. PRAYER

WHEREFORE, premises considered, Defendants pray that this Notice of Removal be deemed sufficient and that the proceedings attached hereto be removed from the 430th Judicial District Court of Hidalgo County, Texas, to the docket of this Honorable Court. Defendants additionally request that this Court grant the requested relief in its Motion to Transfer.

Respectfully submitted,

/s/ Robert A. Valadez

Robert A. Valadez
S.D. Tx. No. 10959
SHELTON & VALADEZ, P.C.
600 Navarro, Suite 500
San Antonio, Texas 78205
rvaladez@shelton-valadez.com
Phone: (210) 349-0515
Fax: (210) 349-3666

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing is being electronically filed and served in accordance with the Federal Rules of Civil Procedure on this 30th day of January, 2017, to counsel of record as follows:

Wayne Colodny
TOM RHODES LAW FIRM, P.C.
126 Villita Street
San Antonio, Texas 78205
wcolodny@tomrhodeslaw.com

/s/ Robert A. Valadez

Robert A. Valadez

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